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Gary, Elbert Henry

Address by  
Elbert H. Gary...

[New York?]

[1924]

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Z	Gary, Elbert Henry, 1846-1927.
Box 168	Address by Elbert H. Gary, president, American iron and steel institute, New York, October 24, 1924. "Pittsburgh plus". [1924] 17, 11 p. 20 $\frac{1}{2}$ cm.
	ONLY ED

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## TECHNICAL MICROFORM DATA

FILM SIZE: 35mmREDUCTION RATIO: 1/1IMAGE PLACEMENT: IA ☒ IIA IB IIBDATE FILMED: 4-7-97INITIALS: PBTRACKING # : 23190

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## BIBLIOGRAPHIC IRREGULARITIES

MAIN ENTRY: Gary, Elbert Henry

Address by Elbert H. Gary, president, American Iron  
and Steel Institute, New York, October 24, 1924

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Box 168

ADDRESS BY

**ELBERT H. GARY**

PRESIDENT, AMERICAN IRON AND STEEL INSTITUTE

NEW YORK

OCTOBER 24, 1924

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**"PITTSBURGH PLUS"**

ADDRESS BY

**ELBERT H. GARY**

PRESIDENT, AMERICAN IRON AND STEEL INSTITUTE

HOTEL COMMODORE, NEW YORK CITY

OCTOBER 24, 1924

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PITTSBURGH PLUS.

ON July 21, 1924, the Federal Trade Commission ordered that the respondents, United States Steel Corporation and its subsidiary companies, cease and desist from quoting for sale or selling in the course of interstate commerce their rolled steel products known as plates, bars, structural shapes, sheets, tin plate, wire and wire products at Pittsburgh Plus prices or upon any other basing point than that where the products are manufactured, or from which they are shipped, or without clearly and distinctly indicating in such sales the price charged at shipping point and how much is charged for transportation; and also from discriminating in price between different purchasers within the United States or any territory thereof, or the District of Columbia or any insular possession, where the effect may be to lessen competition in interstate commerce, provided nothing should prevent discrimination on account of difference

in grade, quality or quantity, or that makes only due allowance for difference in cost of selling or transportation or that is made in good faith to meet competition.

It is at least doubtful that if the respondents had appealed to the Courts for full and final consideration of all the questions involved, the order of the Federal Trade Commission would have been approved and upheld as coming within the power and authority of the Commission. As to this view you can refer to your legal departments. Indeed, you probably have already done so.

However, after giving the whole subject careful consideration, the respondents concluded to cheerfully accept and acquiesce in the decision. Many of the leading independents in the steel industry, and perhaps all of them, followed suit.

Many of you were startled by the action of the Commission and temporarily, at least, entertained feelings of disappointment and dissatisfaction. More than that, your business activities and progress have been interrupted, impeded and in places almost demoralized. As yet, you have not been able to restore the natural trend of affairs. Sellers and purchasers alike have been groping for a course that would permit a basis for transactions which would furnish the stability and uniformity which every department of business effort desires and seeks. For the best success in industrial enterprise of any kind it is as necessary to have some standard to reckon from as it is to have a gold dollar basis to make comparison and computation. You are encountering and will continue to encounter difficulties. You may decide to appeal to the courts for remedy; but you are beseeched

to give the matter most patient and painstaking thought before doing so.

You have heard that much energy and considerable money has been expended in creating a sentiment that Pittsburgh Plus is wrong in principle; and you have indulged a feeling that the proceedings before the Commission were influenced by personal and selfish motives; but concerning this all of us should endeavor to consider both sides of the case before reaching a final decision.

It will be attempted in this discourse to give a full and strictly accurate account in substance of the facts relating to Pittsburgh Plus.

In the earlier days, because of the proximity of ore and fuel supplies, iron and steel manufacturing and consuming enterprises sprang up in the central coast states, with Philadelphia as the center. This led to Philadelphia becoming the principal importing point for foreign iron and steel. Therefore Philadelphia was the natural basing point, and purchasers elsewhere bought at Philadelphia prices and paid the cost of transportation to the respective places of consumption. Later the manufacture of iron and steel was begun at Pittsburgh and this rapidly grew in volume. That was then the best location with respect to cost of assembling the raw materials and distributing the finished products. It was adjacent to the steam and coking coal and lime stone, easily and cheaply reached by the iron ore via the Great Lakes and a short railroad from Lake Erie to Pittsburgh, and it rapidly became a great main line railroad center. Consequently, Pittsburgh almost suddenly and naturally became the basing point. For a great many years the cost of producing iron and steel was materially less at Pittsburgh than

it was at any other place in the United States. In fact, with equipment in every respect up to the very latest standards, costs at Pittsburgh still are, and will continue to be, with the lowest in the comparative columns. Moreover, the volume of iron and steel produced there still is and will probably remain the largest of any location in the world. If there should be any single basing point for the sale of iron and steel, such as Chicago for wheat or beef and pork, it would naturally be Pittsburgh. Except for changes in conditions and circumstances, arising during the last few years, Pittsburgh unquestionably would still be the basing point for iron and steel. Except for the very system of Pittsburgh Plus, such would be the case. That is, without larger selling prices at Chicago, for instance, than Pittsburgh, furnaces and steel mills would not have been erected in the Chicago district, for investors could not afford to do so. The selling prices necessary to enable capital to secure reasonable returns on investments at Chicago in competition with Pittsburgh were realized by taking as a measure the Pittsburgh prices and adding the amount of freight between the two cities. This was the only way new locations like Chicago, South Chicago, Gary, Cleveland, Lorain, etc., could influence the establishment of new steel plants in their districts.

But new elements from time to time during the last few years have appeared in the competitive conditions pertaining to the iron and steel industry.

We have seen improvement in practice, such as the lower cost of fuel for the open hearth and blast furnaces by modern coke ovens and the utilization of by-products,

the employment of immense sums in creating larger units and the building of breakwater protection and canals in the south shore of Lake Michigan, which permitted the delivery of iron ore from the mines direct to the furnaces, thus matching in part the lesser freights on coal from Kentucky, West Virginia and Pennsylvania to Pittsburgh.

These changes, with others that might be mentioned, together with somewhat larger selling prices, have enabled iron and steel manufacturers at Chicago to successfully compete with Pittsburgh furnaces and mills. As time passed the costs of production at some of the Chicago district works were as low as Pittsburgh, or nearly so, depending upon methods and equipment, and new mills and furnaces at the former were constructed and put into operation.

Subsequently, complaints, increasing in volume, were made that purchasers in certain middle-western localities, were being discriminated against; that it was not just for a Chicago district manufacturer to charge a larger price for steel to be used near or west of the productive plants than the amount charged to Pittsburgh purchasers, arbitrarily adding a sum equal to the freight between the two points when it was not actually paid; that the basis of charging, which was called Pittsburgh Plus, was no longer fair and reasonable.

There is not sufficient time, nor is it necessary, at present, to attempt further explanation concerning the changes in the general situation which justified the erection of iron and steel works in the Chicago district, and the progress they made. It is sufficient to say up to the period when the United States Steel Corporation was

formed, the furnaces and mills at Chicago were not able to successfully compete with the Pittsburgh manufacturers, even with the latter as a basing point for prices so far as it could be used.

Also, in discussing Pittsburgh Plus or Pittsburgh Basing Point, we should not overlook the fact that in actual practice, for several years last past, the system to a greater or less extent has been disregarded by the producers. The competition amongst manufacturers, located in the Chicago district, has been so great on account of their increased and increasing capacity, that they have paid little, and, in a majority of cases, no attention whatever to the question of freight rates from Pittsburgh to western points.

In this connection it is worthy of mention that competition, when it is free and open, uninfluenced by artificial means, always has and always will and ought to fix the selling and purchasing prices of all commodities. Of course, prices will vary to different purchasers, scattered throughout the country, influenced by locations, close to or remote from producing points, capacity and costs of production, necessary charges for transportation, etc. No law or application of legal principles can ever eliminate or change the effect of free and natural competition. It is to protect against artificial or controlled measures or combinations which restrain open and free competition, that laws are provided and enforced. In subscribing and conforming to this principle, the iron and steel industry must and will take a leading part. It is to be hoped and expected that this industry will likewise be afforded protection against combinations or other

measures calculated to restrain natural competitive conditions.

In March, 1919, the iron and steel industry of the United States was reasonably prosperous. The Chicago district had become important. Its productive capacity was large. Its plants were numerous, comparatively new and modern in design. Its costs of manufacture compared favorably with Pittsburgh. Competition amongst the Chicago manufacturers was brisk, and the Pittsburgh Plus system was to some extent in force.

On March 15th, 1919, your President received from the late John S. Miller, then a distinguished and leading lawyer of Chicago, a letter dated March 14th, 1919, stating that he had

"been retained by the Western Association of Rolled Steel Consumers to take up and look into their complaint of price discrimination on the part of producers of steel against the Rolled Steel Consumers in this territory, such as compose the membership of the Western Association of Rolled Steel Consumers;"

that upon looking into the matter with some care, their complaint seemed to him to be well grounded; that his clients would like to have this discrimination removed without the least bit of friction; and suggested a conference. On March 18th, 1919, your President answered Mr. Miller as follows:

"I beg to acknowledge receipt of your letter of March 14th instant. I have for some time been carefully considering the subject as an economic one from the standpoint of what is fair and just. As yet, I have not secured an unanimous opinion. However, I do not think it is hopeless."



As many of those who are present here today are aware, this letter stated the facts.

About May 8th, 1919, your President wrote to Mr. Miller:

"There is no intentional, unnecessary delay on my part. I think we should find a solution for all time. The establishment of a basing point is not generally, if ever, for the benefit of a city or locality asking for it. Chicago may be independent of these considerations."

Again June 11th, 1919, your President wrote to Mr. Miller as follows:

"I now expect to arrange for a meeting between your clients and some of the steel people within the next two or three weeks. I am actively considering the matter. There has been no unnecessary delay on my part. The problem is difficult."

It was later decided by representatives of the iron and steel interests to ask their respective lawyers to meet for discussion of the Pittsburgh Plus matters, and they met accordingly. Following their meeting and on June 19th, 1919, your President again wrote to Mr. Miller as follows:

"On yesterday, I received a letter from the Hon. William C. Redfield, Secretary of Commerce, in which he states he has received complaints concerning the maintenance of Pittsburgh as a basing point, and requesting that several other points be included, such as Buffalo, Cleveland and Chicago, and that he had replied that his department had no jurisdiction of the subject and referred to the Federal Trade Commission as being authorized to act

in such cases. As President of the American Iron and Steel Institute I have received several letters on this general subject, some of them of a complaining character. They have been written from Minneapolis and other places. The American Iron and Steel Institute would not be disposed, if it had the right, to represent the steel industry in connection with the discussion pertaining to this matter. I suggest to you that under all the circumstances, it might be appropriate and wise for you and me to visit the Chairman of the Federal Trade Commission, and for you to then state the position of your clients and ask the Commission to make an inquiry into the subject. I would consent so far as our Corporation is concerned. Of course, the whole steel industry ought to be heard in regard to such a matter. You may deem it advisable to come to New York and go from here to Washington."

On July 1st, 1919, Mr. Miller telegraphed to your President as follows:

"I will reach New York Monday morning and communicate with you on arrival. Your suggestion will be acceptable to me. If convenient for you to communicate with Washington about hearing, you may do so on my behalf as well as your own, using my name, and I will be prepared to go from New York to Washington as you suggest."

Your President complied with the request of Mr. Miller and they both appeared before the Commission at Washington July 9th, 1919. There were also present Hon. Victor Murdock, Acting Chairman, Commissioner; Hon. Huston Thompson, Commissioner; Hon. William B. Colver, Commissioner; Dr. Francis Walker, Chief Economist; Mr. Melvin C. Wooster, Chief Accountant,

and Mr. Adrien F. Buswick, Chairman, Board of Review. It was agreed by all present that the proceedings should be public.

Mr. Miller then stated his case and your President made a statement. To be thoroughly familiar with all that took place one should read the record, which is public. For the convenience of members of the Institute, there has been printed for distribution an essential part of the record entitled "Exhibit A." This should be considered a part of this address.

It is perhaps sufficient to say that your President acted in behalf of the industry, as requested by the counsel of the larger interests. He said what seemed to him desirable in assisting to secure a decision by the Federal Trade Commission of all the questions pertaining to the Pittsburgh Plus system, on the merits and as affecting every one and any one connected with the business.

It was supposed by your President that the Federal Trade Commission would include as parties to the proceedings the whole iron and steel industry, and also all others, including various cities and towns, who might be affected by the result. The stand taken by your President with respect to including the entire industry and various localities is definitely and fully shown in "Exhibit A." The Commission did not adhere to this supposed plan and perhaps might be justly criticised for this failure. However, in view of all that had taken place, the Steel Corporation concluded it would not be justified in refusing to acquiesce in the findings and decree which were finally made.

There would have been one of the biggest legal and

official inquiries that has ever occupied the courts or governmental bodies if there had been included every interest affected, as was tentatively agreed to, and the whole subject had been referred to and finally adjudicated by the courts. As before suggested, any member desiring to appeal to the courts may still do so.

It is believed the entire iron and steel industry will, within a reasonable time, voluntarily be operating on a basis conformable to the opinion rendered by the Federal Trade Commission, notwithstanding the United States Steel Corporation and its subsidiaries alone were made respondents; and that if we are patient and reasonable we shall find, though with perhaps some additional work and cost, the industry, taken as a whole, and including both producers and consumers, will not materially suffer by reason of the elimination of the Pittsburgh Plus system.

Purchasers generally desire no more and no less than fair and reasonable prices without discrimination, all things being equal. This tends to insure stability in business, avoiding sudden and extreme fluctuations, which is essential to continued prosperity and satisfaction. The ordinary purchaser of any commodity does not desire an unreasonably low price if his neighbor pays the same amount for the same thing at the same place under the same conditions, and this disposition to be fair should be reciprocated by all sellers, for with this ideal situation the total population in this country has the opportunity to thrive up to the full measure of merit. Unreasonably low prices, especially if they fluctuate, are as bad for every one as unreasonably high prices. Capital and labor alike are interested in these questions. It is

up to the iron and steel manufacturers to do their part in both directions.

But for one, your President entertains the opinion that there are involved questions more important than those which are only of a legal nature. What is the fair, the equitable view to take? What is just as between producers and their purchasing acquaintances?

What has been done has caused considerable confusion, some injustice, perhaps some demoralization and unreasonably low returns on investments. But it is to be hoped that all difficulties will readily be overcome and that, in these matters, the entire steel industry will have the patience, the energy and the wisdom to solve the perplexities occasioned by the effort to abrogate the Pittsburgh Plus and before long return to the position of progress and prosperity to which it is entitled.

There is more to excite feelings of doubt and anxiety in our minds, so far as reasonable profits and prosperity are concerned, than the orders of Federal tribunals. Overlooking for the moment political questions and results, reference is made to the disposition of the iron and steel manufacturers themselves. A prominent newspaper editor once said: "There is a good deal of human nature in mankind." Like those engaged in other lines, it is natural for a manufacturer of iron or steel to be selfish and greedy; to seek a temporary advantage even by unfair conduct toward his competitor. He amongst us who is without guilt in this respect, "let him first cast a stone."

If every one of us will persistently deal with all others fairly we shall receive our just deserts. If we charge only reasonable prices, taking into account the

amount of investment, risk of business, vicissitudes of trade, depreciation and upkeep, treat our employes with liberal propriety and acknowledged standards of humanity, conserve the interests of our stockholders or owners, act decently and friendly toward our competitors, carefully consider the demands of public sentiment when we know and understand them, and always obey the laws of the land when they have been made known, then we may expect to prosper and to receive what is our due.

We can afford to submit to a public sentiment, however created or brought about, if and when we are not called upon to sacrifice a moral principle. Then, maintaining this attitude, when such a sacrifice is demanded, we can stubbornly oppose and defend against it, and expect sooner or later to receive commendation and support.

The highest and best rewards come from honest and proper practice. Bad results in the long run come from selfish, unfair and dishonest conduct.

#### BUSINESS CONDITIONS

According to the newspaper reports, based on information gathered from usual sources, confirmed by much additional testimony, there has been a persistent, though somewhat irregular, growth in the volume of business generally throughout the United States since May, 1924. It has been considerably larger each succeeding month. There are no public reports showing the total production and shipment in this country of all classes of steel and iron for this period. However, the subsidiary companies of the corporation which possess something less than one-half the capacity of all manufacturers in the

United States, sold about two thousand tons per day more of steel in June than in May, about six thousand more tons per day in July than in June, about ten thousand more tons per day in August than in July, about six thousand tons per day more in September than in August, and about five thousand tons per day more for the first seventeen days of October than for the first seventeen days of September. The shipments for the same period, on the average, exceeded sales because of the accumulated unfilled orders on the books which were placed prior to May.

Partly due to spirited competition in selling and partly to other causes, including increased costs of production while various works were in less than full operation, and also including the disturbance and confusion created by the abandonment of the Pittsburgh Plus system, so called, the net cash results during the last quarter have been somewhat less in proportion than would be indicated by the tonnage alone. This undoubtedly will be shown by the accounts of the Steel Corporation when they are made up; and unfortunately it is more pronounced as to some of the independent manufacturers. As to the Corporation, it is believed the profits for the last quarter were substantial notwithstanding the adverse influences adverted to.

The future success of the iron and steel industry in this country is assured if the managers will keep their heads, and further if the approaching election results shall be satisfactory. As to the first proviso, we have the opportunity and the responsibility. As to the second, it is for the majority of the national electors to determine whether or not they desire continued prosperity. All of

us, all the people of the United States, must together enjoy prosperity or suffer from adversity.

It goes without saying that business conditions in this country during the next year and during the next four years depend largely upon the result of the election on November fourth proximo. Every well-informed business man or woman knows that if the best men are elected there probably will be continued and increasing prosperity, and that if others less capable and less worthy are selected we may expect depression and disturbances in business, less production, more idleness, less comfort, more distress; a decided interruption to legitimate progress that will not be easily nor soon overcome.

In this greatest of all nations, with largest opportunities for worthy achievement and human happiness, there is possibility of suicidal action or neglect that will cause immeasurable loss and suffering to multitudes.

But sentiments of self-protection will influence the large majority of voters to give careful thought to the best interests of the country and themselves, and they will therefore wisely discriminate and decide. In this most important, if not critical, period in our history, they can be depended upon to act along the lines of prudence and safety. They will not take unnecessary chances of danger by adopting untried and uncertain theories or by selecting officials whose competency is assured largely, if not alone, by their own professions and promises.

No name for president is mentioned in these remarks; no political creed will be discussed; but some of the qualifications for the official leader of our great and beloved country may properly be referred to. First of all, he should be possessed of the highest moral principles. He

should be absolutely impartial, disposed to favor no person or aggregation or interest to the undue prejudice of another. He should be modest, plain and simple, and still courageous, dignified and wise. He should ascertain the facts and patiently consider before he decides any question presented. He should truthfully and frankly inform the country concerning all public matters whenever it can be done without prejudice to governmental interests, relying upon an honest people for approval concerning the merit of his attitude. He should not hesitate to speak the truth, when it is necessary, nor to remain silent when no one could be injured thereby. He should be willing to lend his influence and devote his talents to legitimate business, progress and general prosperity, and likewise to prevent and penalize corruption and wrong. He should endeavor to assist and to protect the poor, the weak and the suffering, and, at the same time should be willing to help the rich, the strong and the happy when it is indisputably right to do so. He should practice and enforce strictest economy and husband all resources in governmental administration, but should not indulge in false economy. He should be willing to properly cooperate with and to assist foreign nations, entertaining always an intention of first considering and protecting the interests of his own country.

Notwithstanding, as usual, every fourth year we are passing through a mud-slinging campaign, with its unfavorable effects, except there is an extraordinary quantity of mud this year, we shall find that an intelligent and fair-minded majority will be wise and courageous in their action. An overruling Providence, up to the limit of what this country deserves, will guide and direct the

people. We will succeed in all laudable undertakings in spite of the unworthy efforts and words of unprincipled or incompetent individuals.

Our Ship of State is too great, too fine, too solid, substantial and strong to be pronounced unseaworthy on the words of unscrupulous, unintelligent or inexperienced men, and then turned over to a board of underwriters. I am convinced the public has been right during the last few months in believing the election returns will be satisfactory, as shown by the steady and persistent increases in the volume of business. With such a result we may look forward through the autumn and succeeding months with hope and confidence. We shall not make ourselves a laughing stock to the onlookers of foreign countries, some of whom possibly watch and comment upon our attitude. We shall be friendly to them and, so far as proper and practicable, will be helpful, but we shall keep ourselves in the moral, financial, commercial and industrial condition necessary for the best service and most active assistance whenever justly called upon.

Gentlemen, are any of you pessimists? Are you discouraged or down-hearted? Look ahead. Our lands, our climate, our wealth, our productive and transportation facilities, our increasing consuming desire and capacity, our educational advantages, our churches, our protective national constitution, our floating flag, our spirit of loyalty, all remain. Demagogues or anarchists or fakers cannot deprive us of these blessings. Where else on earth can be found another such a nation? Let us be thankful, hopeful, confident and determined. Let us be loyal to our country, to all others who are interested in what we do or say, and to each other.

EXHIBIT "A"  
ACCOMPANYING AND A PART OF ADDRESS OF  
**ELBERT H. GARY**  
PRESIDENT, AMERICAN IRON AND STEEL INSTITUTE  
OCTOBER 24, 1924  
NEW YORK

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**Excerpts from Proceedings Before  
Federal Trade Commission**

*A conference with representatives of Western Association of Rolled Steel Consumers and United States Steel Corporation, in regard to Pittsburgh Basing Point Practice, Washington, D. C., July 9, 1919.*

JUDGE GARY: The whole iron and steel industry ought to be in here. You ought to have jurisdiction over the whole thing. It is one of the most important questions that you have ever had before you, or ever will have before you, if you take jurisdiction, as I think you ought and as I think you can. I believe it is a matter to be settled by this Commission. That is my judgment about it.

Perhaps I need not pursue further the statement of conditions, but I want to say that it seems to me there must be a different application of principles to different companies that are engaged in the manufacture of iron and steel. Some of them have mills in the East and in the Middle West both, like the United States Steel Corporation. The Republic Iron & Steel has mills situated

in different places, I think; I know they are interested in Birmingham, as well as Youngstown and some other places—to some extent in Pittsburgh, I think. Now, different locations are more or less competing, because they want their territories built up. Different manufacturers in these locations are more or less competing, because some have mills at Pittsburgh and mills at Chicago and that vicinity, Cleveland, and so forth, and could supply from different districts. Others have only plants located at Pittsburgh, and would be more or less cut off from other territories; and then, when you commence to do that, will the general consumer suffer or profit, part of the competition having been removed? It is a proposition to change the methods of doing business, to disarrange the plans which have been in force, and therefore every community is entitled to be heard, I think, and certainly every producer of steel and every different class of consumer. It would be ideal, for instance, for Mr. Wagner if he could have this basing proposition changed so as to make Pittsburgh and Chicago the basing points and the only basing points.

MR. MILLER: He would be satisfied with that. He has no objection to a base mill; he has a mill in Milwaukee. But he would be satisfied, as all the members of this association would be satisfied, with a provision Pittsburgh-Chicago.

JUDGE GARY: That would be totally unsatisfactory to Duluth, you will see.

COMMISSIONER COLVER: Birmingham would soon be along, and it would not be satisfactory to Birmingham. I suppose Pueblo would be heard from.

JUDGE GARY: Yes; quite likely.

COMMISSIONER MURDOCK: Of course "the tail goes with the hide."

JUDGE GARY: Yes. Now then, I just want to state my position, representing now the Steel Corporation only.

COMMISSIONER THOMPSON: Judge, you said you thought we ought to take jurisdiction.

JUDGE GARY: I do. I think you ought to take jurisdiction.

COMMISSIONER THOMPSON: Upon what grounds do you think we have jurisdiction?

JUDGE GARY: On the ground that the consumers are complaining that there is discrimination on the part of the manufacturers of steel in regard to selling prices. This is not my point, but they complain of that.

MR. MILLER: It is our point.

JUDGE GARY: Yes; it is their point. They make that point, and they are entitled to have it heard, it seems to me. Now, I am not trying to bring work to this Commission, because Lord knows you have enough; but I am disposed to say that from my standpoint I would like to have this question fully heard on the evidence, so that the facts from the beginning to the present can be determined, and then every interest heard that desires to be heard, and then the whole question settled, so that the Steel Corporation at least could say to anybody hereafter complaining, "There is an adjudication of this question, and we are following the judgment and decree of the Federal Trade Commission." If it is right to have this changed, I would like to have it done. I will say, speaking for our Corporation, that the matter of making a little more or a little less money on account of this basing price does not appeal to me at all.

Now then, the Steel Corporation might be in better position to assume that attitude than some other steel manufacturers; so those manufacturers ought to be heard. I do not want to do anything, and I do not want to be a party to anything that would prejudice our competitors, any more than I do our consumers. It is a responsibility that I do not want to assume. I want them to have a chance to be heard.

COMMISSIONER MURDOCK: Judge Gary, the question is a pretty big one, and not only involves this proposition, but involves the whole economic structure of society.

JUDGE GARY: It does.

COMMISSIONER MURDOCK: And you mentioned one point that, if you will, I wish you would dilate upon a little bit, and that is the advantage to the community at large in stability in a commodity and its price.

JUDGE GARY: In the first place, stability in business of any kind is the first essential.

COMMISSIONER MURDOCK: Is that not only from the viewpoint of the industry itself, but from the viewpoint of the consumer?

JUDGE GARY: Yes.

COMMISSIONER COLVER: And the public interest?

JUDGE GARY: Yes; and the public interest. I am firmly of that opinion. Every man doing business, whether he is a purchaser or a seller, whether he is a fabricator or buys to sell again, is better prepared to do business and is more successful in business if he has some foundation which he thinks will not change from day to day or from month to month, and which is not fluctuating, which is not susceptible to fluctuation. If you were going to build a block on a lot which you have in Washington today, and

the market in regard to steel and brick and other commodities was changing rapidly and frequently, you would begin to make calculations as to what Mr. Colver could do if he decides to wait and build next year. For instance, if the points of delivery change, the methods of delivery change, the methods of handling change, and are susceptible to influences which go beyond the mere law of supply and demand, then the man desiring to use the commodity in question is not protected unless there is some stability of fundamental agencies.

In regard to different communities, if a man is solicited to locate a mill, a plant of any kind, at a certain city or a certain point in the country, of course he begins to figure what will be the results of that business conducted from that point. Now, if he finds upon inquiry that unless he is in some way protected by some basing arrangement which will allow him to enter into competition with the man who has a mill at Pittsburgh or Chicago or some other place; if he finds he would labor at such a disadvantage that he could not survive there, he will not do that. Consequently the community will say, "That ought to be changed; he ought to be permitted to manufacture in our location, within reasonable limits, at a price which will enable him to compete with Pittsburgh and these other points;" and therefore, if it is decided that everything is to be sold f.o.b. mill, the community that is desirous of making extensions and improvements, enlarging its city, is disadvantaged and prevented from succeeding.

It is difficult to commence a discussion of these questions without going into various things that I do not want to go into now, Mr. Chairman, because, in the



first place, I do not want to say anything that should in the least prejudice Mr. Miller's case, and more especially I do not want to say anything that could possibly prejudice any of our competitors in business, or any community—like Duluth and West Superior, if you please—or the general public. If this Commission can be satisfied now that Mr. Miller has made a complaint—and he has made it; he has been after me for about three months, and he may have thought I was a little slow; his clients undoubtedly did; but I have tried to talk this question first with my associates in business, and then with some of the other steel people as I would casually meet them, and not until finally I said to them that Mr. Miller was going to press this claim before the Federal Trade Commission, and it had to be determined on the merits, did I receive much encouragement from the other steel men that they were willing to recognize that anybody had any claim or any right. And they are entitled to be heard. Mr. Miller's clients are entitled to be heard; other steel purchasers are entitled to be heard. We often have consumers, members of our Institute, come to our office and say, "For mercy's sake don't reduce your prices." And I say, "Don't you want to buy cheaper?" "No, I don't want to buy cheaper now. I want those prices maintained if you can do it, because in the first place I have got an inventory on hand, and I don't want the price of that inventory reduced; in the next place, I am making my contracts now with other people, and if you disarrange that, then I have got to change my prices with them, and so forth; and I am in the midst of putting up a building and I don't want demoralization."

COMMISSIONER COLVER: That brings you back to your statement about stability.

JUDGE GARY: Stability; it comes back to that. Now, assume that you take jurisdiction; and for one I would like to have you take jurisdiction if you can, I do not know that I have got a competitor in business who would agree to that; probably not; but I would like to have you take jurisdiction if you can, because I want it settled. And if you do take jurisdiction, I would like to have you appoint your member, or in any way you please, take such evidence as is necessary, and get all the facts, and then I would like to have you hear from everybody on the subject, and then settle this question of basing point once for all, and settle it right.

Now, I admit that that is about as big a lawsuit as ever came before any judicial tribunal. I admit that. But it is important, and I believe you have got the jurisdiction, and I think some one ought to settle it; because these complaints in regard to basing point are growing in numbers and in severity, and it is not a comfortable place.

Now, Mr. Miller, excuse me.

MR. MILLER: That is all right.

I do not think the Commission need be appalled by the magnitude of the question here. I do not know how much it will broaden out. It came about in this way: The people that I represent had enjoyed the double basing for a while—

COMMISSIONER MURDOCK: By the way, Mr. Miller, Mr. Wagner is located in Chicago, is he?

MR. MILLER: Milwaukee. He is president of the Wisconsin Bridge & Iron Company. We have members in

Minneapolis, and so on around the Middle West. These people are from the Middle West, in what is called the Chicago district, extending as far west as the Missouri River or farther. I think all west of Pittsburgh to the coast would share in the desire for at least the double basing, Pittsburgh and Chicago.

The reason I approached Judge Gary about this is very obvious. He is president of the American Iron and Steel Institute, and he is the executive head of the great United States Steel Corporation. That corporation has a plant at Gary in the Chicago district, and one at Pittsburgh in the Pittsburgh district. It was selling its steel, as we conceive, discriminating between customers. Its customers in the Chicago district, buying their steel from the Gary mill, were paying an exaggerated price, a price that was higher than the customers of their Carnegie mill at Pittsburgh were paying. That seemed to me to afford an instance of discrimination in price as to which the Commission has jurisdiction. It seemed to be, too, a case of unfair competition within the powers of the Commission.

With the growth of our country this Middle West district is chasing the Pittsburgh district in development. It happens, as Judge Gary says, that at one period of time, when the steel industry was young—I think one of my clients remarked, through the foresight of a little Scotchman who has interested himself in the steel business in that region—Pittsburgh became the great iron and steel producing center. They had the ore and they had the coal close by. Since then the greatest ore-producing district in the world, perhaps, is in Minnesota, near the head of the Great Lakes; and, being wise, Judge Gary's

great corporation started a very large plant at Gary, at the head of Lake Michigan. They could bring their ore from the Minnesota ore beds by their huge steamers down to Gary, and it happens that Gary taps a very large coal supply; and my clients tell me that in this speech that Judge Gary spoke about, at Duluth—I think he stated it today—it was stated that the production of steel at Gary is even lower in cost at present than the production of steel at Pittsburgh, and I think Judge Gary concedes that at least they are on an even keel. The Gary plant is a huge plant, and the Inland plant is a large plant, near Gary; it is an independent company. The Interstate is a considerable one.

Now, if I had not gotten into the contact with Judge Gary that I did, and if instead of taking it up in that way, as I conceived to be wise and called for, I had come first here, I would have come with a concrete complaint against his company for violation both of the Clayton Act and of the Federal Trade Commission Act. I agree with Judge Gary that this question is broad and involves large interests. I do not mean merely the interests of the steel producers; it is larger than that—

COMMISSIONER MURDOCK: Oh, yes, much.

MR. MILLER (Continuing): Or even these fabricators in the Middle West, who are very, very large; but every consumer of steel in the Midwest and between the Pittsburgh district and the Pacific coast is interested in the question of whether there goes into the price of the steel that he puts into his building or his structure or his use—agricultural implements or whatever it may be—a swollen price of \$5.40 a ton that does not represent any element of cost; the idea being that a fair price for a

product is cost plus a fair profit. Here you have an artificial element. So far as these consumers in the Middle West are concerned, you have got an artificial element by which the price to them is not fixed on cost, or cost plus a fair profit, but is fixed artificially in order to harmonize prices.

Now, the matter of stability of price, to which the Commissioner referred, of course has its great value.

COMMISSIONER MURDOCK: I would like to hear you on that, Mr. Miller, because the whole tendency of present-day society is in the direction of stability in industry, and it is an element that enters in, and it enters in in apparent contradiction of the good old theory of competition. I would like to hear you on that proposition.

MR. MILLER: I am no economist; I am a lawyer.

JUDGE GARY: He is extravagant.

MR. MILLER: Judge Gary was a great lawyer, and then became a very great economist, and I am still plodding along in a modest way and practicing law.

JUDGE GARY: But on the top rung.

MR. MILLER: I would say about that, speaking with a very great deal of diffidence, that you have not yet solved that question entirely, with a country like ours, where ten years produces an industrial revolution—produces a growth, perhaps, that never was dreamed of. Judge Gary's development of his town out there, that took his name, would never have been dreamed of ten or twenty-five years before it started. The trouble with stability is that you are dealing with an unstable situation, with the growth of your country. Stability is desirable, but it is only within very small limits, or reasonable limits, in my opinion, that you can get it; because with the growth

of your country you produce new centers and new conditions that upset your theories of a few years before. Stability is an ideal rather than a practical conception, in my opinion, or any approach to it. We are all the time working to it within certain limits. As to competition, I think it is still the life of trade; and I suppose the Sherman Act still has vitality, and perhaps teeth—I know it did have a good many teeth at one time—and I think competition, too, is called for.

COMMISSIONER MURDOCK: Mr. Miller, you said that this involved, in this commodity, all stages, all elements that touch the commodity—the consumer and the fabricator and the steel mill. A decision by this Commission on this question, in my opinion, will involve not only steel but many other commodities which follow this general line, and I would like to get this idea to you and see if you can clear it up in my mind. Pittsburgh, being the original producer of steel and the center of steel, gathered to itself not only the steel mills, but fabricators and steel industries of many kinds, and all the integrated parts of the steel were turned into things for society at Pittsburgh. So Pittsburgh did become the center of this proposition.

MR. MILLER: It had all the ore. It had everything at its door.

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